

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

There are no changes to the initial statement of reasons, which is hereby incorporated by reference.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action amending Sections 345.39, 345.45, 345.56 and 345.78 in Article 4.7, Chapter 1, Division 1, of Title 13, California Code of Regulations, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other nondiscretionary cost or savings to local agencies, and (4) no costs or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on October 7, 2005, and made available to the public from October 7, 2005 through November 21, 2005. The following comments were received on the regulatory proposal.

Assigned No.	Commenter Name, position, business entity and date within the comment period
W-1	Ken Harrison, Co-chairman, representing San Diego County Traffic School Association Letter #1 – Dated October 19, 2005; Received by First Class Mail on November 1, 2005 Letter #2 – Dated October 31, 2005; Received by Facsimile on November 1, 2005 and by First Class Mail on November 7, 2005 Ken Harrison, representing California Comedy Traffic Schools Letter #3 – Dated November 2, 2005; Received by Facsimile on November 2, 2005
W-2	Susan Farrell Krull, DMV TVS Instructor, I'll Never Speed Again Comedy Traffic Schools Letter dated November 2, 2005; Received by Facsimile on November 2, 2005
W-3	Roy Pinckard, President, 7 Days-A-Week & Evening Classes Letter dated November 2, 2005; Received by Facsimile on November 3, 2005
W-4	Gene Peron, Secretary/Treasurer, Public Education Providers of Traffic Safety Programs Letter dated November 2, 2005; Received by Facsimile on November 7, 2005
W-5	Loree Taylor, Operator, Comedy for Less Traffic School Letter dated November 18, 2005; Received by e-mail on November 21, 2005

W-6	William Niles, President, Interactive Safety Education, Inc. Letter dated November 20, 2005; Received by e-mail and facsimile on November 21, 2005
W-7	Brett Elkins, Vice-President – CTSA, President – California Traffic Classes, Inc. Letter dated November 7, 2005; Received by First Class Mail on November 21, 2005
W-8	Signatures of 350 commercial drivers 19 pages received via fax from November 15, 2005 through November 21, 2005

Public Hearing

The following commenters requested a hearing: W-1 (letters 2 and 3), W-2, and W-7.

The following individuals attended and presented comments at the public hearing held on November 29, 2005.

Assigned No.	Commenter Name, position, business entity and date within the comment period
P-1	William Niles Interactive Safety Education, Inc. 400 E. Commonwealth Avenue Fullerton, CA 92832
P-2	Loree Taylor Traffic Safety Center, Inc. 400 E. Commonwealth Avenue Fullerton, CA 92382
P-3	Guillermo Brun Academia de Tráfico en Español 1403 W. Oak Street Stockton, CA 95207

The following concerns were raised in letters received by the department as well as during the public hearing.

- If a court allows attendance at a traffic violator school by somebody that should not be allowed to attend, it should not be the responsibility of an instructor to prohibit the driver from attending.
Commenters: W-1, W-2, W-3, W-4, W-5, W-6
P-1, P-2

Department Response: The courts are primarily responsible for prohibiting a commercial driver from attending traffic violator school. However, if the court misreads the traffic citation, or law enforcement fails to mark the citation, the court may inadvertently send a

commercial driver to a traffic school. Anticipating that this might occur, Section 345.78(b) was added to require traffic violator schools to verify the driver license class and to examine a copy of the citation for each student prior to instruction. This procedure maintains compliance with federal regulations and ensures that only authorized students receive a completion certificate.

- Violators who utilize online traffic school courses will not be subject to the same regulations as those who attend a classroom course. This creates an unfair business practice.

Commenters: W-1, W-3, W-6

P-1, P-3

Department Response: Although the department has statutory authority to regulate licensed traffic violator schools, it has no authority over courses approved by a court. Therefore, the department is restricted to issuing regulations that only involve classroom instruction. The department has contacted the courts and asked them to have providers of court approved programs follow the same procedures.

- To comply with these regulations will have a significant financial impact on a traffic violator school.

Commenters: W-1, W-5, W-6, W-7

P-1, P-2, P-3

Department Response: According to our understanding, industry anticipates taking additional time, which could lead to overtime pay for instructors, for processing student applications due to these regulations. However, this would not appear to be the case given that traffic violator schools are already required by statute to keep a record of a student's name, address, instruction permit number or driver license number, and court docket number under which the student was referred. Industry has not indicated that this has been a problem. Checking the permit or license classification when recording this information would not seem to add significantly to that time.

- Most students attending traffic violator schools do not have the citation with them. Most students bring the letter from the court authorizing them to attend traffic school with the citation number on the letter.

Commenters: W-3, W-5

P-1

Department Response: These regulations involve commercial drivers only. It is anticipated that a commercial driver will seldom, if ever, apply for traffic violator school because both the courts and drivers are aware that commercial drivers are not allowed to attend traffic violator school to dismiss traffic violations issued September 20, 2005 or later. In the unlikely event that a commercial driver has authorization from a court to apply for traffic violator school, the driver may attend, but a completion certificate cannot be issued.

- Many times the citation has incorrect information, such as the address.

Commenters: W-5

P-1

Department Response: To correct this situation, Section 345.39(c) has been added and states, "The instructor shall validate the student information provided on the roster sheet or enrollment card, pursuant to Section 345.45(a), with the student's actual driver license." A student's name, address, and driver license or permit number should be taken from the driver license or permit, not the citation. The only information recorded from the citation should be the court docket number and type of vehicle driven at the time of the violation.

- Traffic violator school instructors are not trained to know or define "commercial vehicle". This should be the responsibility of the court.

Commenters: W-5, W-6

P-1, P-2

Department Response: All courts have been notified that California Vehicle Code Section 42005 prohibits them from sending or allowing a commercial driver to attend traffic violator school making it very unlikely that traffic violator schools will have to deal with this issue. To be certain, while recording the student's name, address, and driver license or permit number, the instructor can look to see if "Commercial Driver License" is printed near the top of the license.

- Section 345.78(c) is redundant and restates Vehicle Code Section 11200(a) and 11200(d)(1).

Commenter: W-7

P-1

Department Response: While Section 345.78(c) may seem redundant, its purpose is to clarify Section 345.78(b), which states in part that a commercial driver "...may not attend a traffic violator school in lieu of adjudicating a traffic offense..." This may be inferred to mean that a commercial driver cannot attend traffic violator school at all. That is not the case. This section was inserted to reaffirm compliance with California Vehicle Code Section 11200(a), which allows "other persons who elect", and Section 11200(b)(1) which allows "any person who elects" may attend traffic violator school.

- Industry not conferred with as stated in the Findings of Emergency

Commenters: W-1, W-3, W-5, W-6

P-1, P-2

Department Response: The Driving School Association of California (DSAC) and Traffic School Association of California (TSAC) hold annual conferences which are attended by department representatives. During the past three years, the department has advised the attendees about federal regulations that would have an effect on their industries, including this proposed regulation.

- Many students don't bring their driver license with them to class or their driver license has been lost or confiscated.

Commenters: W-3

P-2

Department Response: To identify a commercial driver, regulations require that an instructor look at the driver license to confirm its number, class, and student's name and address, with the information on the "...roster sheet or enrollment card, pursuant to Section 345.56(a)..." If a license is not presented, neither the court nor the department can make the commitment to mask the violation on the correct driving record. Therefore, to ensure the accuracy of department records, each student's attendance at traffic violator school is validated when the instructor confirms the information on the student's driver license.

- Use of the term "validate" versus "verify"

Commenters: W-5

P-1, P-2

Department Response: The word "validate" is appropriate in this case because that term more accurately reflects the regulation's intent. The intent is to confirm that the driver license information matches the information on the roster or enrollment card and that the picture on the license is of the person enrolling in the class.

- Statement in Findings that these regulations will encourage more careful drivers.

Commenters: W-5

Department Response: A commercial driver will be more careful while driving because, rather than dismissing violations through traffic violator school, these violations and the "points" assessed for them will be reportable on the driving record. If too many violation points are accumulated, the driver will be classified as a "negligent operator" and have his or her driving privilege suspended or revoked. Research has consistently shown that this process has a greater impact on drivers than attending traffic violator school.

- Commercial drivers are on the road for longer periods of time and should be allowed to attend traffic school to be able to dismiss a violation.

Commenters: W-8

Department Response: Commercial drivers are not prohibited from attending traffic violator courses. They are prohibited from attending courses in lieu of adjudicating a traffic offense and receiving a completion certificate. The goal of this regulation is to ensure traffic safety by holding commercial drivers to a higher standard. Without these provisions, it would be possible for commercial drivers to avoid the consequences of federally mandated actions against their licenses.

4) Determination of Alternatives

No reasonable alternative considered by the department, or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations. During the rulemaking process, no alternative that would lessen the adverse economic impact on small business was submitted.